



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 08101-99

13 April 2000

SSGT [REDACTED] USMC

Dear Staff Sergeant [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has modified the contested fitness report for 16 June to 31 December 1994 by removing the reviewing officer's comments.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 23 December 1999, with references (c) and (d), copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice warranting further correction. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

8101-99

IN REPLY REFER TO:  
1610  
MMER/PERB  
23 DEC 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF  
SERGEANT [REDACTED] USMC

Ref: (a) SSgt. [REDACTED] Form 149 of 25 Aug 99  
(b) MCO P1610.7C w/Ch 1-6  
(c) CMC ltr 1610 MMER/PERB of 15 Nov 99  
(d) SSgt. Vargas' ltr 1610 CEMD of 12 Dec 99

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, first met on 3 November 1999 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 940616 to 941231 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. Although the petitioner had asked for removal of the entire report, his arguments concerned the Reviewing Officer's remarks only. As evidenced by reference (c), the PERB concluded that removal of the Reviewing Officer's comments was warranted and so directed that action.

3. By reference (d), Staff Sergeant [REDACTED] notified this Headquarters that he still desired removal of the entire evaluation. His contention is that certain marks in Section B are inconsistent with the narrative comments in Section C. To support his position, the petitioner furnishes his own letter, copies of Primary Marksmanship Instructor (PMI) Evaluation Sheets, and a copy of the fitness report at issue.

4. The Board met on 21 December 1999 and concluded that the fitness report, as amended by eliminating the Reviewing Officer's remarks, is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Contrary to the petitioner's stated objections, the Board discerns absolutely nothing inconsistent between any of the assigned ratings in Section B and the comments contained in Section C. The petitioner's beliefs that marks of "excellent" and "above average" somehow contradict the sentences he identifies is simply unfounded. While the marks may be less

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ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF  
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than what he desires, the Board is quick to point out that marks of "excellent" and "above average" both equate to more than "satisfactory" performance.

b. The petitioner's inference that marks of "excellent" (i.e., Items 14b and 14c - Personal Appearance and Military Presence, respectively) require comment (or specific counseling) is again unfounded. No where in reference (b) does it mandate that marks of "excellent" need to be justified or otherwise expanded upon.

c. The PMI Evaluation Sheets furnished with reference (d) definitely speak well of the petitioner's performance and accomplishments. They do not, however, serve to negate the overall evaluation.

5. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Staff Sergeant [REDACTED] official military record.

6. The case is forwarded for final action.

[REDACTED]  
Chairperson, Performance  
Evaluation Review Board  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1610

MMER/PERB

NOV 15 1999

From: Commandant of the Marine Corps  
To: Staff [REDACTED] USMC

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the Reviewing Officer's comments only for the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Reporting Period</u>
10 Jan 95	[REDACTED]	940616 to 941231 (TR)

2. There will be inserted in your Naval record a memorandum in place of the removed comments. The memorandum will state that the comments have been removed by order of the Commandant of the Marine Corps, and may not be made available to selection boards and other reviewing authorities; that such boards may not conjecture or draw inference as to the nature of the comments.

3. Since your only argument concerned the remarks made by the Reviewing Officer, the Board found that removal of the entire report was not warranted and that the action identified herein was sufficient. If, however, you still wish for consideration to be given to completely removing the report, notify this Headquarters (MMER) no later than 20 December 1999. Absent such notification, your case will be administratively closed without further action.

[REDACTED]  
By direction

UNITED STATES MARINE CORPS  
Telecommunications and Information System Directorate  
Communication Electronic Maintenance Department  
G-6 TISD  
MCAS, Cherry Point, North Carolina 28533-0014

1610  
CEMD  
12 Dec 99

From: Staff Sergeant [REDACTED]  
To: Manpower and Reserve Affairs (MMER)

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

Encl: (1) Letter from CMC 15 Nov 99  
(2) PMI Eval Sheets  
(3) Fitness Report 10 Jan 95

1. As per the enclosed letter it is requested that further consideration be taken into the removal of the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Reporting Period</u>
10 Jan 95	[REDACTED]	940616 - 941231 (TR)

2. This request is based on the following inconsistencies between marks received in Section " B " and the comments recorded in Section " C " :

- a) The marking of Cooperation (14e) and Loyalty (14k) down to excellent at the same time the R/S writes in section " C " ; " Energetic, hardworking, and dedicated to recruit training" , " Promotes discussion and the exchange of ideas at every opportunity" , is clearly a contradiction in these areas.
- b) The marking of Judgment (14g) down to Above Average, I will assume was trying to be justified with; " Will require a more mature thought process to best support the total training philosophy" . However, this as well is contradicted just two lines later with " **Superior training results** solicit confidence and support from the Drill Instructors he supports" . I'm not quite sure how **Superior** training results would not support the total

philosophy since marksmanship training was in fact the primary function of Weapons Training Battalion, nor would it justify the mark of Above Average.

Subj: CORRECTION OF NAVAL RECORD

- c) Nowhere in Section " C " does it reference Personal Appearance or Military Presence, However, those are two areas that are addressed in the Primary Marksmanship Instructor Evaluation Sheet required and reviewed weekly by the R/S. Enclosed are the copies of all evaluation sheets submitted during this reporting period. The markings in these and all other areas, as well as the comments that are written will show that the Marks received in Section " B " of questioned report do not fairly or accurately depict the character or professionalism that I showed throughout this time. Furthermore, at no time was I counseled to the contrary of these evaluation sheets.
3. It is for these above mentioned discrepancies that I feel this report is unfair and unjust and ask that it be removed from my permanent record. Your time, efforts, and consideration are greatly appreciated.

